

LEGISLATURE OF NEBRASKA  
NINETY-SIXTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 1006**

Introduced by Engel, 17; Connealy, 16; Dickey, 18

Read first time January 5, 2000

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections  
2 23-224 and 23-259, Reissue Revised Statutes of Nebraska,  
3 and sections 77-3442, 77-3443, and 77-3444, Revised  
4 Statutes Supplement, 1999; to change provisions relating  
5 to the levy authority of townships; to harmonize  
6 provisions; and to repeal the original sections.  
7 Be it enacted by the people of the State of Nebraska,

1                   Section 1.   Section 23-224, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   23-224.   The electors present at the annual town meeting  
4 shall have power:

5                   (1) To make all orders for sale, conveyance, regulation,  
6 or use of the corporate property of the town that may be deemed to  
7 be conducive to the interests of the inhabitants;

8                   (2) To take all necessary measures and give directions  
9 for the exercise of their corporate powers;

10                  (3) To provide for the institution, defense, or  
11 disposition of suits at law or in equity in which the town is  
12 interested;

13                  (4) To take such action as shall induce the planting and  
14 cultivation of trees along the highways in such towns and to  
15 protect and preserve trees standing along or on highways;

16                  (5) To construct and keep in repair public wells and to  
17 regulate the use thereof;

18                  (6) To prevent the exposure or deposit of offensive or  
19 injurious substances within the limits of the town;

20                  (7) To make such bylaws, rules, and regulations as may be  
21 deemed necessary to carry into effect the powers herein granted and  
22 to impose such fines and penalties, not exceeding twenty dollars  
23 for one offense, as shall be deemed proper, except when a fine or  
24 penalty is already allowed by law, which fine or penalty shall be  
25 imposed by the county court;

26                  (8) To direct the raising of money by taxation, ~~subject~~  
27 ~~to approval by the county board,~~ (a) for constructing and repairing  
28 roads and bridges within the town to the extent allowed by law; (b)

1 for the prosecution or defense of suits by or against the town or  
2 in which it is interested; (c) for any other purpose required by  
3 law; (d) for the purpose of building or repairing bridges over  
4 streams dividing the town from any other town; (e) for the  
5 compensation of town officers at the rate allowed by law and, when  
6 no rate is fixed for such amount, as the electors may direct; and  
7 (f) for the care and maintenance of abandoned or neglected  
8 cemeteries within the town, except that the town board shall not  
9 expend more than one hundred dollars in any one year for such  
10 purposes. When any county discontinues township organization, the  
11 county shall care for and maintain such abandoned or neglected  
12 cemeteries;

13 (9) To guard against the destruction of property in the  
14 town by prairie fire;

15 (10) To restrain, regulate, or prohibit the running at  
16 large of cattle, horses, mules, asses, swine, sheep, and goats and  
17 determine when such animals may go at large, if at all. All votes  
18 thereon shall be by ballot;

19 (11) To authorize the distraining, impounding, and sale  
20 of cattle, horses, mules, asses, sheep, goats, and swine for  
21 penalties incurred and costs of proceedings. The owner of such  
22 animals shall have the right to redeem the same from the purchaser  
23 thereof at any time within one month from the day of sale by paying  
24 the amount of the purchaser's bid, with reasonable costs for their  
25 keeping and interest at the rate of seven percent per annum;

26 (12) To purchase, hold, plat, improve, and maintain  
27 grounds for cemetery purposes; to sell and convey lots in such  
28 cemeteries for the burial of the dead and to contract with the

1 purchaser to perpetually care for and keep in order the lots so  
2 sold; and to elect trustees who shall have power to manage such  
3 cemetery under such bylaws as the electors of the township at the  
4 annual town meeting shall from time to time adopt. When any county  
5 discontinues township organization, the county shall care for and  
6 maintain such abandoned or neglected cemeteries; and

7 (13) To hold an election or town meeting pursuant to  
8 section 77-3444 to exceed the levy limits established by section  
9 ~~77-3443~~ 77-3442.

10 Sec. 2. Section 23-259, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 23-259. The money necessary to defray the town charges  
13 of each town shall be levied on the taxable property in such town  
14 in the manner prescribed by the Nebraska Budget Act. The rate of  
15 taxes for town purposes shall not exceed twenty-eight cents on each  
16 one hundred dollars upon the taxable value of the taxable property  
17 in such township for all purposes. ~~subject to approval of the~~  
18 ~~county board.~~

19 Sec. 3. Section 77-3442, Revised Statutes Supplement,  
20 1999, is amended to read:

21 77-3442. (1) Property tax levies for the support of  
22 local governments ~~for fiscal years beginning on or after July 1,~~  
23 ~~1998,~~ shall be limited to the amounts set forth in this section  
24 except as provided in section 77-3444.

25 (2)(a) Except as provided in subdivision (2)(b) of this  
26 section, school districts and multiple-district school systems may  
27 levy a maximum levy of (i) one dollar and ten cents per one hundred  
28 dollars of taxable valuation of property subject to the levy until

1 fiscal year 2001-02 and (ii) one dollar per one hundred dollars of  
2 taxable valuation of property subject to the levy for fiscal year  
3 2001-02 and all subsequent fiscal years. Excluded from this  
4 limitation are amounts levied to pay for sums agreed to be paid by  
5 a school district to certificated employees in exchange for a  
6 voluntary termination of employment and amounts levied to pay for  
7 special building funds and sinking funds established for projects  
8 commenced prior to April 1, 1996, for construction, expansion, or  
9 alteration of school district buildings. For purposes of this  
10 subsection, commenced means any action taken by the school board on  
11 the record which commits the board to expend district funds in  
12 planning, constructing, or carrying out the project.

13 (b) Federal aid school districts may exceed the maximum  
14 levy prescribed by subdivision (2)(a) of this section only to the  
15 extent necessary to qualify to receive federal aid pursuant to  
16 Title VIII of Public Law 103-382. For purposes of this  
17 subdivision, federal aid school district means any school district  
18 which receives ten percent or more of the revenue for its general  
19 fund budget from federal government sources pursuant to Title VIII  
20 of Public Law 103-382.

21 (3) Community colleges may levy a maximum levy on each  
22 one hundred dollars of taxable property subject to the levy of (a)  
23 eight cents for fiscal year 1998-99 and fiscal year 1999-2000 and  
24 (b) seven cents for fiscal year 2000-01 and each fiscal year  
25 thereafter.

26 (4) Natural resources districts may levy a maximum levy  
27 of four and one-half cents per one hundred dollars of taxable  
28 valuation of property subject to the levy.

1           (5) Educational service units may levy a maximum levy of  
2 one and one-half cents per one hundred dollars of taxable valuation  
3 of property subject to the levy.

4           (6) Incorporated cities and villages may levy a maximum  
5 levy of forty-five cents per one hundred dollars of taxable  
6 valuation of property subject to the levy plus an additional five  
7 cents per one hundred dollars of taxable valuation to provide  
8 financing for the municipality's share of revenue required under an  
9 agreement or agreements executed pursuant to the Interlocal  
10 Cooperation Act or the Joint Public Agency Act. The maximum levy  
11 shall include amounts levied to pay for sums to support a library  
12 pursuant to section 51-201, museum pursuant to section 51-501,  
13 visiting community nurse, home health nurse, or home health agency  
14 pursuant to section 71-1637, or statue, memorial, or monument  
15 pursuant to section 80-202.

16           (7) Sanitary and improvement districts which have been in  
17 existence for more than five years may levy a maximum levy of forty  
18 cents per one hundred dollars of taxable valuation of property  
19 subject to the levy, and sanitary and improvement districts which  
20 have been in existence for five years or less shall not have a  
21 maximum levy.

22           (8) Counties may levy or authorize a maximum levy of  
23 fifty cents per one hundred dollars of taxable valuation of  
24 property subject to the levy, except that five cents per one  
25 hundred dollars of taxable valuation of property subject to the  
26 levy may only be levied to provide financing for the county's share  
27 of revenue required under an agreement or agreements executed  
28 pursuant to the Interlocal Cooperation Act or the Joint Public

1 Agency Act. The maximum levy shall include amounts levied to pay  
2 for sums to support a library pursuant to section 51-201 or museum  
3 pursuant to section 51-501. The county may allocate up to fifteen  
4 cents of its authority to other political subdivisions subject to  
5 allocation of property tax authority under subsection (1) of  
6 section 77-3443 and not specifically covered in this section to  
7 levy taxes as authorized by law which do not collectively exceed  
8 fifteen cents per one hundred dollars of taxable valuation on any  
9 parcel or item of taxable property. The county may allocate to one  
10 or more other political subdivisions subject to allocation of  
11 property tax authority by the county under subsection (1) of  
12 section 77-3443 some or all of the county's five cents per one  
13 hundred dollars of valuation authorized for support of an agreement  
14 or agreements to be levied by the political subdivision for the  
15 purpose of supporting that political subdivision's share of revenue  
16 required under an agreement or agreements executed pursuant to the  
17 Interlocal Cooperation Act or the Joint Public Agency Act. If an  
18 allocation by a county would cause another county to exceed its  
19 levy authority under this section, the second county may exceed the  
20 levy authority in order to levy the amount allocated.

21 (9) Townships may levy a maximum levy of twenty-eight  
22 cents per one hundred dollars of taxable valuation of property  
23 subject to the levy.

24 (10) Property tax levies for judgments obtained against a  
25 political subdivision which require or obligate a political  
26 subdivision to pay such judgment, to the extent such judgment is  
27 not paid by liability insurance coverage of a political  
28 subdivision, for preexisting lease-purchase contracts approved

1 prior to July 1, 1998, for bonded indebtedness approved according  
2 to law and secured by a levy on property, and for payments by a  
3 public airport to retire interest-free loans from the Department of  
4 Aeronautics in lieu of bonded indebtedness at a lower cost to the  
5 public airport are not included in the levy limits established by  
6 this section.

7           ~~(10)~~ (11) The limitations on tax levies provided in this  
8 section are to include all other general or special levies provided  
9 by law. Notwithstanding other provisions of law, the only  
10 exceptions to the limits in this section are those provided by or  
11 authorized by sections 77-3442 to 77-3444.

12           ~~(11)~~ (12) Tax levies in excess of the limitations in this  
13 section shall be considered unauthorized levies under section  
14 77-1606 unless approved under section 77-3444.

15           ~~(12)~~ (13) For purposes of sections 77-3442 to 77-3444,  
16 political subdivision means a political subdivision of this state  
17 and a county agricultural society.

18           Sec. 4. Section 77-3443, Revised Statutes Supplement,  
19 1999, is amended to read:

20           77-3443. (1) All political subdivisions, other than (a)  
21 school districts, community colleges, natural resources districts,  
22 educational service units, cities, villages, counties, townships,  
23 and sanitary and improvement districts and (b) political  
24 subdivisions subject to municipal allocation under subsection (2)  
25 of this section, may levy taxes as authorized by law which are  
26 authorized by the county board of the county in which the greatest  
27 portion of the valuation is located, which are counted in the  
28 county levy limit provided in section 77-3442, and which do not



1 collectively total more than fifteen cents per one hundred dollars  
2 of taxable valuation on any parcel or item of taxable property for  
3 all governments for which allocations are made by the municipality  
4 or county, except that such limitation shall not apply to property  
5 tax levies for preexisting lease-purchase contracts approved prior  
6 to July 1, 1998, for bonded indebtedness approved according to law  
7 and secured by a levy on property, and for payments by a public  
8 airport to retire interest-free loans from the Department of  
9 Aeronautics in lieu of bonded indebtedness at a lower cost to the  
10 public airport. The county board shall review and approve or  
11 disapprove the levy request of all political subdivisions subject  
12 to this subsection. The county board may approve all or a portion  
13 of the levy request and may approve a levy request that would allow  
14 the requesting political subdivision to levy a tax at a levy  
15 greater than that permitted by law. The county board of a county  
16 which contains a transit authority created pursuant to section  
17 14-1803 shall allocate no less than three cents per one hundred  
18 dollars of taxable property within the city subject to the levy to  
19 the transit authority if requested by such authority. For any  
20 political subdivision subject to this subsection that receives  
21 taxes from more than one county, the levy shall be allocated only  
22 by the county in which the greatest portion of the valuation is  
23 located. The county board of equalization shall certify all levies  
24 by October 15 to insure that the taxes levied by political  
25 subdivisions subject to this subsection do not exceed the allowable  
26 limit for any parcel or item of taxable property. The levy  
27 allocated by the county may be exceeded as provided in section  
28 77-3444.

1           (2) All city airport authorities established under the  
2 Cities Airport Authorities Act, community redevelopment authorities  
3 established under the Community Development Law, transit  
4 authorities established under the Transit Authority Law, and  
5 offstreet parking districts established under the Offstreet Parking  
6 District Act may be allocated property taxes as authorized by law  
7 which are authorized by the city or village and are counted in the  
8 city or village levy limit provided by section 77-3442, except that  
9 such limitation shall not apply to property tax levies for  
10 preexisting lease-purchase contracts approved prior to July 1,  
11 1998, for bonded indebtedness approved according to law and secured  
12 by a levy on property, and for payments by a public airport to  
13 retire interest-free loans from the Department of Aeronautics in  
14 lieu of bonded indebtedness at a lower cost to the public airport.  
15 The city council of a city which has created a transit authority  
16 pursuant to section 14-1803 shall allocate no less than three cents  
17 per one hundred dollars of taxable property subject to the levy to  
18 the transit authority if requested by such authority. The city  
19 council or village board shall review and approve or disapprove the  
20 levy request of the political subdivisions subject to this  
21 subsection. The city council or village board may approve all or a  
22 portion of the levy request and may approve a levy request that  
23 would allow a levy greater than that permitted by law. The levy  
24 allocated by the municipality may be exceeded as provided in  
25 section 77-3444.

26           (3) On or before August 1, all political subdivisions  
27 subject to county or municipal levy authority under this section  
28 shall submit a preliminary request for levy allocation to the

1 county board, city council, or village board that is responsible  
2 for levying such taxes. The preliminary request of the political  
3 subdivision shall be in the form of a resolution adopted by a  
4 majority vote of members present of the political subdivision's  
5 governing body. The failure of a political subdivision to make a  
6 preliminary request shall preclude such political subdivision from  
7 using procedures set forth in section 77-3444 to exceed the final  
8 levy allocation as determined in subsection (4) of this section.

9 (4) Each county board, city council, or village board  
10 shall (a) adopt a resolution by a majority vote of members present  
11 which determines a final allocation of levy authority to its  
12 political subdivisions and (b) forward a copy of such resolution to  
13 the chairperson of the governing body of each of its political  
14 subdivisions. No final levy allocation shall be changed after  
15 September 1 except by agreement between both the county board, city  
16 council, or village board which determined the amount of the final  
17 levy allocation and the governing body of the political subdivision  
18 whose final levy allocation is at issue.

19 Sec. 5. Section 77-3444, Revised Statutes Supplement,  
20 1999, is amended to read:

21 77-3444. (1) A political subdivision, other than a Class  
22 I school district, may exceed the limits provided in section  
23 77-3442 or a final levy allocation determination as provided in  
24 section 77-3443 by an amount not to exceed a maximum levy approved  
25 by a majority of registered voters voting on the issue in a  
26 primary, general, or special election at which the issue is placed  
27 before the registered voters. A vote to exceed the limits provided  
28 in section 77-3442 or a final levy allocation as provided in

1 section 77-3443 must be approved prior to October 10 of the fiscal  
2 year which is to be the first to exceed the limits or final levy  
3 allocation. The governing body of the political subdivision may  
4 call for the submission of the issue to the voters (a) by passing a  
5 resolution calling for exceeding the limits or final levy  
6 allocation by a vote of at least two-thirds of the members of the  
7 governing body and delivering a copy of the resolution to the  
8 county clerk or election commissioner of every county which  
9 contains all or part of the political subdivision or (b) upon  
10 receipt of a petition by the county clerk or election commissioner  
11 of every county containing all or part of the political subdivision  
12 requesting an election signed by at least five percent of the  
13 registered voters residing in the political subdivision. The  
14 resolution or petition shall include the amount of levy which would  
15 be imposed in excess of the limits provided in section 77-3442 or  
16 the final levy allocation as provided in section 77-3443 and the  
17 duration of the excess levy authority. The excess levy authority  
18 shall not have a duration greater than five years. Any resolution  
19 or petition calling for a special election shall be filed with the  
20 county clerk or election commissioner no later than thirty days  
21 prior to the date of the election, and the time of publication and  
22 providing a copy of the notice of election required in section  
23 32-802 shall be no later than twenty days prior to the election.  
24 The county clerk or election commissioner shall place the issue on  
25 the ballot at an election as called for in the resolution or  
26 petition which is at least thirty days after receipt of the  
27 resolution or petition. The election shall be held pursuant to the  
28 Election Act. ~~For petitions filed with the county clerk or~~

1 ~~election commissioner on or after May 1, 1998, the~~ The petition  
2 shall be in the form as provided in sections 32-628 to 32-631. Any  
3 excess levy authority approved under this section shall terminate  
4 pursuant to its terms, on a vote of the governing body of the  
5 political subdivision to terminate the authority to levy more than  
6 the limits, at the end of the fourth fiscal year following the  
7 first year in which the levy exceeded the limit or the final levy  
8 allocation, or as provided in subsection (5) of this section,  
9 whichever is earliest. A governing body may pass no more than one  
10 resolution calling for an election pursuant to this section during  
11 any one calendar year. Only one election may be held in any one  
12 calendar year pursuant to a petition initiated under this section.

13           (2) The ballot question may include any terms and  
14 conditions set forth in the resolution or petition and shall  
15 include the following: "Shall (name of political subdivision) be  
16 allowed to levy a property tax not to exceed ..... cents per  
17 one hundred dollars of taxable valuation in excess of the limits  
18 prescribed by law until fiscal year ..... for the purposes  
19 of (general operations; building construction, remodeling, or site  
20 acquisition; or both general operations and building construction,  
21 remodeling, or site acquisition)?" . If a majority of the votes  
22 cast upon the ballot question are in favor of such tax, the county  
23 board shall authorize a tax in excess of the limits in section  
24 77-3442 or the final levy allocation in section 77-3443 but such  
25 tax shall not exceed the amount stated in the ballot question. If  
26 a majority of those voting on the ballot question are opposed to  
27 such tax, the governing body of the political subdivision shall not  
28 impose such tax.

1           (3) The county clerk or election commissioner may set a  
2 uniform date for a special election to be held before October 10,  
3 1998, to submit the issue of exceeding the limits provided in  
4 section 77-3442 or the final levy allocation as provided in section  
5 77-3443 to the voters of political subdivisions in the county  
6 seeking additional levy authority. Any political subdivision may  
7 individually or in conjunction with one or more other political  
8 subdivisions conduct a special election on a date different from  
9 that set by the county clerk or election commissioner, except that  
10 a governing body shall pass a resolution calling for a special  
11 election for this purpose and deliver a copy of the resolution to  
12 the county clerk or election commissioner no later than thirty days  
13 prior to the date of the election.

14           (4) In lieu of the election procedures in subsection (1)  
15 of this section, any political subdivision subject to section  
16 77-3443, other than a Class I school district, and villages and  
17 townships may approve a levy in excess of the limits in section  
18 77-3442 or the final levy allocation provided in section 77-3443  
19 for a period of one year at a meeting of the residents of the  
20 political subdivision, ~~or~~ village, or township called after notice  
21 is published in a newspaper of general circulation in the political  
22 subdivision, ~~or~~ village, or township at least twenty days prior to  
23 the meeting. At least ten percent of the registered voters  
24 residing in the political subdivision, ~~or~~ village, or township  
25 shall constitute a quorum for purposes of taking action to exceed  
26 the limits or final levy allocation. If a majority of the  
27 registered voters present at the meeting vote in favor of exceeding  
28 the limits or final levy allocation, a copy of the record of that

1 action shall be forwarded to the county board prior to October 10  
2 and the county board shall authorize a levy as approved by the  
3 residents for the year. If a majority of the registered voters  
4 present at the meeting vote against exceeding the limits or final  
5 allocation, the limit or allocation shall not be exceeded and the  
6 political subdivision shall have no power to call for an election  
7 under subsection (1) of this section.

8 (5) A political subdivision, other than a Class I school  
9 district, may rescind or modify a previously approved excess levy  
10 authority prior to its expiration by a majority of registered  
11 voters voting on the issue in a primary, general, or special  
12 election at which the issue is placed before the registered voters.  
13 A vote to rescind or modify must be approved prior to October 10 of  
14 the fiscal year for which it is to be effective. The governing  
15 body of the political subdivision may call for the submission of  
16 the issue to the voters (a) by passing a resolution calling for the  
17 rescission or modification by a vote of at least two-thirds of the  
18 members of the governing body and delivering a copy of the  
19 resolution to the county clerk or election commissioner of every  
20 county which contains all or part of the political subdivision or  
21 (b) upon receipt of a petition by the county clerk or election  
22 commissioner of every county containing all or part of the  
23 political subdivision requesting an election signed by at least  
24 five percent of the registered voters residing in the political  
25 subdivision. The resolution or petition shall include the amount  
26 and the duration of the previously approved excess levy authority  
27 and a statement that either such excess levy authority will be  
28 rescinded or such excess levy authority will be modified. If the

1 excess levy authority will be modified, the amount and duration of  
2 such modification shall be stated. The modification shall not have  
3 a duration greater than five years. The county clerk or election  
4 commissioner shall place the issue on the ballot at an election as  
5 called for in the resolution or petition which is at least thirty  
6 days after receipt of the resolution or petition, and the time of  
7 publication and providing a copy of the notice of election required  
8 in section 32-802 shall be no later than twenty days prior to the  
9 election. The election shall be held pursuant to the Election Act.

10 (6) For purposes of this section, when the political  
11 subdivision is a sanitary and improvement district, registered  
12 voter means a person qualified to vote as provided in section  
13 31-735. Any election conducted under this section for a sanitary  
14 and improvement district shall be conducted and counted as provided  
15 in sections 31-735 to 31-735.06.

16 (7) For purposes of this section, when the political  
17 subdivision is a school district or a multiple-district school  
18 system, registered voter includes both (a) persons qualified to  
19 vote for the members of the school board of the school district  
20 which is voting to exceed the maximum levy limits pursuant to this  
21 section and (b) persons in those portions of any Class I district  
22 which are affiliated with or a part of the school district which is  
23 voting pursuant to this section, if such voter is also qualified to  
24 vote for the school board of the affected Class I school district.

25 Sec. 6. Original sections 23-224 and 23-259, Reissue  
26 Revised Statutes of Nebraska, and sections 77-3442, 77-3443, and  
27 77-3444, Revised Statutes Supplement, 1999, are repealed.